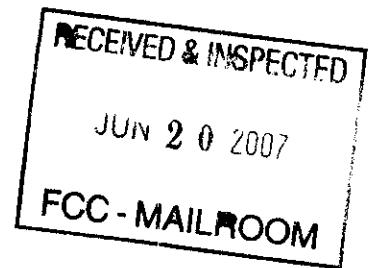


BASSO  BASSO



June 18, 2007

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, MD 20743

Re: E-Rate Appeal, Genesee County ISD

Dear Ms. Dortch:

Enclosed is an Appeal on behalf of the Genesee County ISD appealing 2 Revised Funding Commitment Decision Letters dated April 20, 2007.

Also enclosed is a Letter of Agency providing authorization for our firm to represent Genesee County ISD in this appeal.

If you have any questions, please contact me at 906.265.4410.

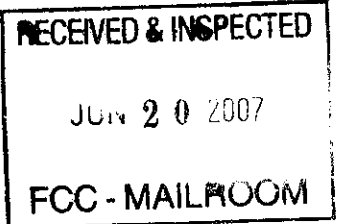
Thank you for your attention to this matter.

Sincerely,

Ronald M. Basso

Enclosures

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## **FEDERAL COMMUNICATIONS COMMISSION**

**In Re: Genesee County ISD**

**Form 471 Application Nos. 526408 & 531275**

**CC Docket No. 02-6**

**Funding Year: 2006-2007**

**Billed Entity Number (BEN): 131079**

### **APPEAL**

NOW COMES Genesee County ISD (Appellant) and files an appeal of Revised Funding Commitment Decision Letter (RFCDL) dated April 20, 2007, concerning Form 471 Application Number 526408. Exhibit A.

Further, Appellant files an appeal of RFCDL dated April 20, 2007, concerning Form 471 Application Number 531275. Exhibit B.

The RFCDL's lowered the Appellant's discount for services from 88% to 36%. Further, the Appellant's Basic Maintenance of Internal Connections was not funded with the following explanation: "Given demand, the funding cap will not provide for Basic Maintenance of Internal Connections at your approved discount level to be funded." Exhibit B, page 4.

Appellant requests that these RFCDL's be reversed and that Appellant receive funding as requested in its original Forms 471.

### **STATEMENT OF FACTS**

Appellant filed its Form 471 Application Number 531275, containing a single funding request number for Basic Maintenance of Internal Connections, on February 15, 2006, with a percent discount calculated by Appellant to be 88%. Exhibit C.

Appellant filed its Form 471 Application Number 526408, containing 11 Funding Request Numbers for Telecommunications Services, on February 15, 2006, with the same percent discount. Exhibit D.

Appellant received a Funding Commitment Decision Letter (FCDL) dated September 19, 2006, concerning Form 471 Application Number 526408. Exhibit E.

The percent discount had been reduced by the Universal Service Administrative Company, Schools & Libraries Division (SLD) from 88% to 36%. The explanation given was: "... the shared discount was reduced to a level that could be validated by third party data." No other explanation was provided.

Appellant received a FCDL dated October 24, 2006, concerning Form 471 Application Number 531275. Exhibit F.

This FCDL denied Basic Maintenance of Internal Connection with the following explanation: "Shared discount was reduced. Given demand, the funding cap will not provide for Internal Connections/Basic Maintenance of Internal Connections at your approved discount level to be funded."

By letter dated November 6, 2006, Appellant filed a Letter of Appeal with the SLD regarding Form 471 Application number 526408. Exhibit G.

By letter dated November 7, 2006, Appellant filed a Letter of Appeal with the SLD regarding Form 471 Application Number 531275. Exhibit H.

In both appeals, Appellant contested the decision to lower the shared discount and explained how the discount was arrived at by Appellant.

By letter dated February 22, 2007, the SLD requested additional information to complete the Program Integrity Assurance (PIA) request. The letter stated, in pertinent part, "Based upon review of your Form 471 application, we were not able to validate your requested discount percentage for Knopf Center & Center for Autism (90%) and Special Education Services South (80%)". Exhibit I.

Appellant responded by email on February 23, 2007, indicating once again that the discount was based on Medicaid eligible students. Exhibit J.

Appellant has responded to requests from the USAC on a timely basis and has attempted to demonstrate its compliance with the E-rate program.

On April 20, 2007, Appellant received its RFCDL's which are the subject of this appeal.

### ARGUMENT

Appellant is located in an urban area in Flint, Michigan. The geographic area covered by Appellant is not a wealthy area and Appellant's budget is always tight.

The students who attend the programs at the centers listed in Form 471, i.e. The Knopf Center & Center for Autism, the Marion D. Crouse Instructional Center, and the Special Education Services South, are special education students who live in Genesee County.

The students in the above programs cannot be educated in a traditional local school district. Their disabilities include autism spectrum disorder, moderate cognitive impairment, and severe cognitive and multiple impairments. The ages of these students range from under one year to twenty-six years of age.

Appellant provides services to these special education students because the local districts within the Intermediate School District do not have the resources to provide these students with necessary services.

Appellant has been part of the E-rate program since its inception. Appellant has provided these same services at the same centers since the inception of the E-rate program.

Appellant has consistently calculated the percentage discount by employing the method used this year.

In fact, Appellant was involved in a PIA review of this same issue in 2003. That PIA request and Appellant's response are attached. Exhibit K. Appellant supplied a letter, during the 2003 review, from its Superintendent indicating the method used to determine the discount. During that review, it was determined that Appellant's alternative method of calculating the discount through Medicaid participation was acceptable.

In response to Appellant's most recent PIA, a letter from Appellant's Superintendent, dated June 29, 2006, was once again provided to the PIA. Exhibit L. This letter explained, as the 2003 letter had, the method used to calculate the discounts.

As outlined in Exhibit L, Appellant employs a contractor, PCG, to gather Medicaid data. PCG follows a protocol to gather Medicaid data. Exhibit M.

Appellant determines the number of Medicaid students in the affected programs based on the data provided, as it has done for all E-rate funding years. Appellant is mystified why the same PIA request has arisen once again since Appellant has used the same method since the 2003 request and, in fact, since the inception of the E-rate program.

The E-rate program allows schools to employ 1 of 3 methods to calculate the level of need for determining the appropriate discount for eligible products and services: participation in the National School Lunch Program (NSLP), eligibility information obtained from a survey/application, or by an alternate method – such as that employed by the Appellant. The SLD's website describes acceptable alternative measures of poverty which include participation in the Medicaid program, among others. Exhibit N.

In the instant appeals, Appellant has used, since the first year of the E-rate program, the alternative of participation in the Medicaid program. Appellant does not use the participation in the NSLP to determine its discount because the students come from many school districts within the Genesee County area. If a particular student qualifies for free/reduced lunch, that student is included in the count for the local district that provides the food service to Appellant. There is not a separate count for the NSLP for Appellant. Therefore, Appellant employs the alternative method of Medicaid participation.

If Appellant is denied the calculated discount of 88% and is required to use the 36% discount calculated by the SLD, Appellant will lose all funding for its Basic Maintenance of Internal Connections. Since Appellant is in a poor, urban area of the State of Michigan, such a denial would have a significant, negative impact on its ability to provide services to its most vulnerable population. A matrix is attached which compares funding between the 88% discount and the 36% discount. Exhibit O.

Additionally, Appellant anticipates using \$6.2 million from its fund equity in 2007-08.

Appellant has filed its funding requests since the inception of the E-rate program on a yearly basis in the same manner employed in the current year. Funding has never been denied or reduced in any of the prior years.

It would be unfair to allow the reduction in the discount since this issue has already been resolved in Appellant's favor in 2003, as pointed out above.

Appellant has not attempted to de-fraud or abuse the E-rate program in any way. Rather, Appellant has followed the appropriate criteria in determining the correct

discount for needed services to a most fragile and deserving segment of our population.

The E-rate program was instituted in order to provide school and libraries with an opportunity to receive internet and other technology related services at a discounted rate to assist in the education of its students. It is unfair to deny funding for the current year when consistent procedures have been followed that previously resulted in an award of requested discounts. Appellant understands that the integrity of the E-rate program must be protected. Appellant understands that fraud cannot be tolerated. Appellant has submitted its application for funding with these objectives in mind.

To deny Appellant's requests for funding would create undue hardship and prevent these otherwise eligible schools from receiving E-rate funding.

To deny E-rate funding at the levels requested by Appellant would pose a real hardship to a district already burdened by budget problems.

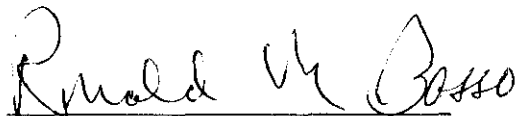
Granting this appeal is in the public interest and in the spirit of the E-rate program.

Therefore, Appellant respectfully requests that its appeals be granted and that full funding under the E-rate program be restored to the Genesee County ISD.

Respectfully submitted,

Genesee County ISD

Dated: June 18, 2007

A handwritten signature in black ink, appearing to read "Ronald M. Basso", is written over a horizontal line.

By: Ronald M. Basso (P24805)  
Basso & Basso Legal Services LLC  
PO Box 63  
Iron River MI 49935

Telephone: 906.265.4410

Email: [ron@bassoandbasso.us](mailto:ron@bassoandbasso.us)



# GENESEE INTERMEDIATE SCHOOL DISTRICT

*Genesee County's Regional Educational Service Agency*

2413 West Maple Avenue, Flint, Michigan 48507-3493  
(810) 591-4400 Fax (810) 591-7570 TTY (810) 591-4545  
[www.geneseeisd.org](http://www.geneseeisd.org)

May 16, 2007

Ronald M. Basso  
Basso & Basso  
PO Box 63  
Iron River, MI 49935

Re: Appeal of funding denial

Dear Mr. Basso:

The Genesee County Intermediate School District authorizes your firm to file an appeal on our behalf with the Federal Communications Commission.

The appeal involves revised Funding Commitment Decision Letters for funding year 2006 dated April 20, 2007, concerning Form 471 application numbers 526408 and 531275.

It is understood that you will file an appeal on our behalf by June 19, 2007.

I am the authorized signor for E-rate applications for Genesee Intermediate School District

Thank you.

Sincerely,

Cynthia A. McCain  
Executive Director, Finance

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